

## **REMARKS**

In response to the above-identified Office Action, Applicant amends the application and seeks reconsideration thereof. In this response, Applicant does not add, cancel or amend any claims. Accordingly, claims 14-19 are pending. Applicant amends the detailed description and drawings as set forth above.

### **I. Objections to the Drawings**

The drawings are objected to under 37 C.F.R. 1.83(a) for failing to show every feature of the invention specified in the claim. The Examiner states that the movable member coupled to the blunting member engaging the outer surface of the introducer sheath which advances the blunting member when the sheath is removed must be shown or features canceled from the claims. These elements of the claims are already illustrated in the figures.

Figure 4 clearly shows secure member 75 which includes a longitudinal portion 77 that extends in a distal direction. Page 6, line 21 - page 7, line 4 of the specification clearly describe that the securing member 75 is "coupled to or otherwise associated with" blunting member 55. See col. 6, lines 22-23. Securing member 75 is described as a hook to anchor or holding the blunting member in position. See col. 6, lines 22-23. The original Figure 4 submitted with the application also clearly labels the securing member 75 as a "safety mechanism (hook)." Further, Figure 7 clearly shows that introducer 15 includes a lip portion at the proximal end which is at rest within housing 57. This lip is engaged by the longitudinal portion 77 of securing member 75. A comparison of Figure 7 with Figure 1 clearly demonstrates that the longitudinal portion 77 as it rests in housing 67 in Figure 1 would engage the lip of introducer 15 as it rests in housing 67 as illustrated in Figure 7. Thus, each of the elements identified by the Examiner are illustrated in the figures. In regard to the objection to the drawings under 37 C.F.R. 1.84(p)(4), Applicant has amended the drawings to consistently use the reference number 16 to designate the cannula or sheath.

## **II. Objection to the Specification**

The Examiner objected to the disclosure for utilizing reference number 30 to indicate a cannula and reference number 16 to indicate a sheath. Applicant has amended the specification in order to consistently use reference number 16 to refer to the cannula or sheath. Accordingly, reconsideration and withdrawal of the objection to the disclosure are requested.

The specification is also objected to by the Examiner as failing to provide proper antecedent basis for the claimed subject matter. The Examiner states that there is no antecedent basis for a "movable member" in the specification. The specification supports the claimed "movable member" on page 8, lines 11-15. This section has been amended to correct the reference number for the "engagement member." The engagement member was incorrectly labeled as 52 and has now been corrected to 77. The specification clearly describes that the engagement member has a function of facilitating movement of the blunting apparatus 25 between its proximally retracted "non-blunting" position as shown in Figure 5 and distally extended "blunting" position as shown in Figure 6. It would be clear to one of ordinary skill in the art that the engagement member (i.e., longitudinal member 77) which is also part of the securing member 75 is attached to the blunting member 65. Member 77 is described as an engagement member because it engages sheath 15. It is inherent to the illustration in Figure 4 that the engagement member 77 has a protruding section at its distal end that facilitates in engaging the surface of introducer 15. It is also inherent in the description of securing member 75, which is described as coupled to the blunting member 65, that it moves from a first proximal position when blunting member 65 is in the retracted position to a second more distal position when blunting member 65 is in an extended position because securing member 75 is coupled to blunting member 65 and if blunting member 65 moves in relation to housing 67, then securing member 75 and longitudinal portion 77 must also move accordingly. Further, this movement of blunting member 65 from a retracted position to an extended position is caused by the separation of introducer 15 from housing 67 because the protruding portion of the longitudinal section 77 causes friction with the outer surface of introducer 15 causing securing member 75 and its longitudinal section 77 (i.e., engagement member) to move to a more distal position and thereby

move blunting member 65 to its extended position. Thus, the specification including Figures 4 and 7 along with column 6, line 22 through col. 7, line 4 and column 8, lines 11-15 provide the antecedent basis for the movable member.

### **III. Claims Rejected Under 35 U.S.C. § 112**

Claims 14-19 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement and enablement requirement. The Examiner states that the claims contain subject matter that is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner states that claim 14 includes new matter consisting of a movable member and advancing of the blunting member with the movable member. Applicant disagrees with the Examiner's characterization of the specification as teaching that securing member 75 secures a blunting member 65 to the housing 67. Rather, the specification states that the securing member 75 is coupled to blunting member 65 to hold blunting member 65 in its position. Page 6, lines 22-23. The Examiner has not identified any part of the specification that states that securing member 75 attaches blunting member 65 to the housing. One of ordinary skill in the art would understand that this section of the specification describes that securing member 75 holds blunting member 65 in either an extended or retraced position as further clarified on page 8, lines 11-15. Thus, as discussed in regard to the objection to the specification, the specification at page 6, lines 21 through page 7, line 4 and column 8, lines 11-15 and Figures 4 and 7 illustrate a movable member to advance a blunting member when the introducer 15 is removed. Therefore, Applicant believes that no new matter has been included in the claim 14. Accordingly, reconsideration and withdrawal of the written description requirement and enablement requirement under 35 U.S.C. 112, first paragraph are requested.

In regard to claims 15-19, these claims depend from independent claim 14 and incorporate the limitations thereof. The Examiner has not indicated any additional material that fails to comply with the written description requirement or the enablement requirement in claims 15-19. Thus, for the reasons mentioned in regard to claim 14, these claims meet the written description and

enablement requirements under 35 U.S.C. 112, first paragraph. Accordingly, reconsideration and withdrawal of the rejection of claims 15-19 are requested.

#### **IV. Claims Rejected Under 35 U.S.C. §103**

Claims 14-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent No. 0630661 issued to Gomez (hereinafter "Gomez") in view of U.S. Patent No. 5,009,642 issued to Sahi (hereinafter "Sahi") and European Patent No. 0353905 issued to Chang (hereinafter "Chang"). Applicant respectfully disagree for the following reasons.

In order to establish a *prima facie* case of obviousness, the Examiner must show that the cited references teach or suggest each of the elements of the claims. In regard to claim 14, this claim includes the elements of "a movable member coupled to the blunting member to engage an outer surface of the introducer sheath and to advance a blunting member to the distally advanced blunting position when the sheath is removed." The Examiner admits that Gomez does not teach or suggest a movable member as claimed. Rather, the Examiner relies on Sahi for teaching this element of claim 14. The Examiner relies on a disk shaped collar 22 to teach the movable member of claim 14. See page 4 of paper no. 15 and column 5, line 62 of Sahi. The Examiner has not identified and Applicant has been unable to discern any part of Sahi that teaches that collar 22 is a movable member or that collar 22 advances a blunting member to a distal position when a sheath is removed. Thus, the Examiner has failed to establish that Sahi teaches each of the elements of claim 14. Further, the Examiner has not indicated and Applicant has been unable to discern any part of Chang that cures these defects of Gomez and Sahi. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness for claim 14 over Gomez in view of Sahi and Chang. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 14 are requested.

In regard to claims 15-19, these claims depend from independent claim 14 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to claim 14, these claims are not obvious over Gomez in view of Sahi and Chang. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 15-19 are requested.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 14-19 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

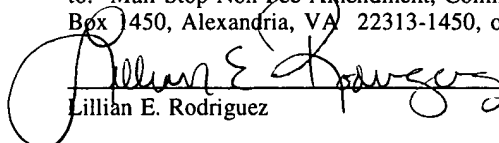
Dated: 11/18, 2003

  
Thomas M. Coester Reg. No. 39,637

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, California 90025  
(310) 207-3800

#### CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 18, 2003.

  
Lillian E. Rodriguez November 18, 2003 11-18-03